

Florence, New Jersey 08518-2323  
February 28, 2012

The Regular Meeting of the Florence Township Zoning Board of Adjustment was held on the above date at the Municipal Complex, 711 Broad Street, Florence, NJ. Chairman Zekas called the meeting to order at 7:30 p.m. followed by a salute to the flag.

Secretary Bott then read the following statement: "I would like to announce that this meeting is being held in accordance with the provisions of the Open Public Meetings Act. Adequate notice has been provided to the official newspapers and posted in the main hall of the Municipal Complex."

Upon roll call the following members were found to be present:

Brett Buddenbaum	Candida Taylor
William Bott	B. Michael Zekas
Keith Crowell	Lou Sovak
John Groze	Anant Patel (Late)
Larry Lutz	

ABSENT: None

ALSO PRESENT: Solicitor David Frank  
Engineer Anthony LaRosa  
Planner Barbara Fegley

Solicitor Frank administered the oath of office to Mr. Sovak.

Member Patel arrived at 7:31 p.m.

Chairman Zekas stated that he would be going out of order on the agenda and would start the meeting with resolutions.

**Resolution ZB-2012-07**  
**Continuing Application ZB-2012-07 for 220 Foundry Street, LLC until the**  
**February 28, 2012 meeting of the Board without the requirement to re-notice.**

Motion of Taylor, seconded by Groze to approve Resolution ZB-2012-07.

Upon roll call the Board voted as follows:

YEAS:	Buddenbaum, Bott, Groze, Lutz, Taylor, Zekas, Patel
NOES:	None
ABSENT:	None

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**Resolution ZB-2012-08**

**Continuing the application of Brian Ostner for bulk variances to approve continued use of an already existing non-approved porch structure on the front and side of the principal structure and for approval to construct an addition to the existing garage on property located at 2057 Burlington-Columbus Road, Florence Township, Block 169.04, Lot 13 until the February 28, 2012 meeting.**

Motion of Buddenbaum, seconded by Groze to approve Resolution ZB-2012-08.

Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Bott, Groze, Lutz, Zekas, Patel  
NOES: None  
ABSENT: None

**APPLICATIONS**

Chairman Zekas called for Application ZB#2011-20 for Brian Ostner. Applicant is requesting bulk variances to approve continued use of an already existing non-approved porch structure on the front and side on the principal structure and for approval to construct an addition to an existing garage on property located at 2057 Columbus Road, Florence Township. Block 169.04, Lot 13.

Solicitor Frank stated that the Board had received a letter dated February 27<sup>th</sup> from Denis Germano from Hulse and Germano advising that he is now representing Mr. Ostner, who appeared before the Board *pro se* earlier. Mr. Germano requested that the hearing be adjourned until March 27, 2012 and consented to an extension of any time for decision by the Board.

Motion of Groze, seconded by Bott to grant the applicant request for a continuance.

Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Bott, Grove, Crowell, Lutz, Zekas  
NOES: None  
ABSENT: None  
ABSTAINED: Taylor

Chairman Zekas called for Application ZB#2012-01 for 220 Foundry Street, LLC. Applicant is requesting Use variance and Minor Site plan to convert three market rate apartments and a bar into six low and moderate affordable apartments on property located at 220 Foundry Street, Florence. Block 14, Lot 8.

Attorney Frederick Hardt, representing the applicant, stated that this is an application for Use variance, bulk variances and various other forms of relief for property at 220

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Foundry Street, Florence. He stated that there were 3 witnesses present to testify for the application.

Solicitor Frank stated that notice of the application was appropriate and the Board has jurisdiction to hear the application.

Chairman Zekas asked the Board's professional staff to address the issue of completeness.

Engineer LaRosa referred the Board to his February 15, 2012 letter and stated that there are 4 submission items that require waivers.

1. Environmental Impact Statement (EIS) because development of the site will have minimal impact to the surrounding area granting the waiver of the EIS is warranted.
2. Preliminary delineation of wetlands based on NJDEP criteria – after walking the site and referencing NJDEP GIS data it was determined that there are no wetlands on site and a waiver would be appropriate.
3. Preliminary delineation of stream encroachment based on NJDEP criteria – the site is not located within a FEMA map flood zone therefore a waiver is warranted.
4. Drainage area map and drainage calculation – this was not requested as part of the submission but a waiver would be required for this. Engineer LaRosa stated that he had some questions as to what would be done with the drainage on site. After speaking with the applicant's engineer there were some concerns as to whether the drainage system in the area would be able to accept the drainage. In the interim between issuing the report and the date of the meeting additional information was received which would support the granting of the waiver.

Motion of Groze, seconded by Crowell to grant the waivers and deem the application complete. Motion unanimously approved by all members present.

Attorney Hardt presented 3 witnesses, William J. Cohen (architect), Bill Nicholson (site engineer) and James Miller (planner). Solicitor Frank stated that both Mr. Nicholson and Mr. Miller had appeared before this Board on numerous occasions and had been previously accepted as experts in their respective fields.

Bill Nicholson, engineer for the applicant, stated that he had prepared the site plan for this project. Referring to Sheet 1 of the site plan (that had been part of the initial submission), Mr. Nicholson pointed out the location of the existing building on the site. He said that the proposal is to convert that building to 6 apartments and add a parking lot on the east side (rear) of the building. Changes will be made to the water connections to the building. He stated that they believe that the sewer connections will be adequate but they will check this out.

Attorney Hardt submitted a series of photographs, exhibits A1 through A4 that Mr. Nicholson stated depicted the current conditions of the site.

Attorney Hardt asked Mr. Nicholson if he had seen Engineer LaRosa's review letter. Mr. Nicholson stated that he had seen the review and agreed with most of it. He stated that there were a few items to be addressed.

On Page 5, Item 3 of the Design Comments, regarding flush curb, ADA ramps and detectable warning surfaces at the intersection, it was determined at a recent meeting between the applicant and some members of the Township Staff that the Township has plans to complete the upgrades to the handicap access issues on the existing street.

Mr. Nicholson said there was an issue about some of the proposed improvements for handicap ramps into the building encroaching into the right-of-way into the street. This will be changed. The apartments have to be adaptable (not necessarily accessible) initially so the ramps will be removed eliminating the issue. The ramp at the rear of the building stays as that is on private property.

Mr. Nicholson stated that there is access to the building on Third Street. There needs to be a step up into the building and this will encroach into the right-of-way. Attorney Hardt stated that the applicant will seek relief from the governing body for this encroachment.

Mr. Nicholson stated that they would comply with all other items in Engineer LaRosa's review letter.

Solicitor Frank asked in regard to the submission waiver granted by the Board regarding the runoff. He asked for some testimony on this. Mr. Nicholson stated that the Township indicated that there was no knowledge of any flooding problems in the area. He stated that there is an existing stormwater inlet in the intersection of the unnamed alley and Third Street just off the southeast corner of the property. Most of the runoff from Third Street and from the site goes to that inlet. The pipe sizing appears to be adequate.

Mr. Nicholson stated that a large part of the area on the property to the east of the building drains to the north. There is a low spot on the neighbor's property to the north of the site (Lot 7). He said that he hasn't seen it but there has to be some ponding occurring on that low spot. He stated that the proposal is to drain the parking lot back out to Third Street, which would then drain to the inlet at the southeast corner of the property. This should help to alleviate the problem that exists on the neighbor's property.

Mr. Nicholson stated that they would also direct the downspouts located on the northwest corner of the building toward the parking lot so that it can be carried out to Third Street as well.

Member Crowell asked if the grading of Third Street could accommodate that water. Mr. Nicholson stated that it could. Chairman Zekas asked if the paving of the parking lot

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would create a problem with the adjacent lot. Mr. Nicholson stated that it would not create a problem.

Attorney Hardt stated that if there were no further questions of Mr. Nicholson he would like to call the architect, Mr. Cohen.

Engineer LaRosa stated that he wanted to go over a few items in his letter. He said that testimony had already been given regarding the encroachment onto Third Street. The off street parking dimension requested is 9' x 18'. This is common practice so he is amenable to granting the design waiver, the number of parking spaces is another issue but that will be touched on later in the meeting. He stated that under design comments testimony has already been given regarding the handicap ramps and the detectable warning surfaces. Mr. Nicholson stated that they would meet everything that is required by ADA and New Jersey Barrier Free.

Engineer LaRosa stated that Item 6 relates to the reconstruction of the sidewalk along Third Street. He stated that it is his understanding that the Township will be doing upgrades to the handicap ramps in the public right-of-way. Attorney Hardt stated that the portion of it that would affect their project will be done by the Township by agreement.

Mr. Nicholson agreed that details for the reinforced concrete driveway apron and sidewalk will be added to the plan. Engineer LaRosa stated that they would do a site walk in order to determine what portion of the existing sidewalk needs to be replaced. Mr. Nicholson stated that they are in agreement with that. Mr. Nicholson agreed that details for the handrails of the handicap ramp at the eastern side of the building will be added to the plan.

Engineer LaRosa stated that he wanted to make it clear to the Board that he believes that the amount of runoff that will be generated from the site will be very minimal and from what they understand the infrastructure that is in the roadway will certainly be able to handle it.

Mr. Nicholson added that he had done a calculation when they were out checking the site. He stated that there is an area almost the same size as the proposed parking lot that used to be an old parking lot. This is somewhat grown over with vegetation, so there is a large area that is broken up asphalt and old gravel underneath what may be perceived to be a lawn. He stated that they did a calculation of proposed versus existing and there is only about a 6% increase in runoff.

Mr. Nicholson agreed that the parking lot area may need to be raised up in order to get the drainage to flow out of that area.

Engineer LaRosa stated in regards to lighting the applicant is required to meet all the lighting intensity requirements. Member Crowell stated that there was a letter from the Environmental Commission regarding the lighting. Attorney Hardt stated that the applicant would comply with the request from the Environmental Commission.

Solicitor LaRosa stated that there was discussion about a location for trash storage. Attorney Hardt stated that location, style and dimensions of the trash enclosure will be a condition of approval and they will work it out in the field with the planner. They want to make sure that it is far enough from the building for safety reasons and appropriately aesthetic in its design so that it doesn't become an unpleasant intrusion in the area.

Member Taylor stated that she wanted to make sure the sewer lines coming from the building were functioning correctly. Attorney Hardt said they would comply with the review from the Director of Water and Sewer. Mr. Nicholson stated that the existing sewer lateral exits the northwest corner of the building and hooks up in Foundry Street.

Engineer LaRosa stated that the last item on his report had to do with a large tree that is on the site but is not shown on the site plan. Mr. Nicholson stated that there is one large tree located on the common property line between the subject property and Lot 7. Attorney Hardt said they could remove the tree, but he doesn't recommend that. They can work with it and see what happens. Planner Fegley asked if there would be any excavation around that tree. Mr. Nicholson stated that they weren't going to excavate just fill in around it. Planner Fegley stated that the tree could still be impacted.

Member Crowell said in his opinion it is very important to establish who owns the tree and if at all possible he would like the applicant to consider saving the tree. Attorney Hardt said that they will do what is necessary to save the tree. There is no intention of removing the tree on purpose or accidentally.

Solicitor Frank made a suggestion that the applicant contact the neighbor in an attempt to find out who is responsible for the tree. Attorney Hardt stated that they would make the contact and keep the Board advised. He stated that all the other existing trees will remain and more will be added as per the landscaping plan.

Attorney Hardt called for testimony from architect William J. Cohen, AIA from Cohen Design/Build Associates of Cherry Hill, NJ. Mr. Cohen is a licensed architect in the state of New Jersey.

Mr. Cohen stated that this building had been here for many years and has been dormant for the last few years. The applicant intends to restore the exterior of the building to its former grandeur. There is no plan to modify the exterior just to restore it. The exterior of the building is predominantly brick and masonry.

The masonry façade will be power-washed and re-pointed. Several of the window openings on the first floor have been altered over the years with various forms of masonry. Some have even been stuccoed over and the outline of brick has been painted onto that stucco. In order to accommodate some egress windows on the first floor and to try and mask some of the blemishes that have occurred over the years there will be a couple of stucco in-fills. Stucco will also be used on the dormers on the third floor to try to tie it together.

Mr. Cohen stated that all the exterior windows would be replaced with new energy efficient windows. The roof will be repaired and restored to its original state. The exterior fascia, eaves, doors and trim will be restored.

Mr. Cohen stated that this is a 3 story structure which previously was a bar on the first floor, with apartments on the second and third floors. The applicant is proposing for the entire structure to be multi-tenanted residential.

The first floor will be divided into three +/- 600 sq. ft. one bedroom apartments. Each apartment will have a small kitchenette, living/dining area, one bedroom and one bathroom. The second floor will include two residential units. One is 950sq. ft. the other is 867 sq. ft. Both units on the second floor are two bedroom units. The third floor is one complete residential unit. It is 1272 sq. ft. and is a two bedroom unit.

Mr. Cohen submitted Exhibit A5 which is a color rendering of sheet A3.0 dated February 27, 2012. This is the same drawing as was previously submitted except they have colorized the Third Street elevation.

Mr. Cohen stated again that this building has lain vacant for many years and the applicant is making every effort possible to restore it and fully occupy it. Responding to Attorney Hardts questions, Mr. Cohen stated that this building when done will be compatible with the neighborhood and consistent with the design options of the neighborhood.

Member Crowell asked if it would be feasible to reconfigure this building so that the property would encompass townhomes or condos. Mr. Cohen says townhomes or condos are forms of ownership; it doesn't have anything to do with the configuration or design of the building. Attorney Hardt stated that the applicant was not planning to make this building condos or townhomes. This building will be owned by the not for profit corporation that has purchased it. These apartments will be deed restricted in accordance with COAH requirements to certain income levels. This will not be converted into an ownership structure.

Member Taylor asked to see the architectural rendering and asked if the proposal was to have these huge square voids of stucco on the bottom of the building. She stated that it didn't appear that they are trying to restore the building to any historical grandeur. Mr. Cohen said that it would look worse if you tried to replace the brick as the color would be off. It is much easier to come up with some kind of architectural detail and tie it together an all three stories. He stated that the original commercial use of the building would have had several storefront windows. The building is being converted to apartments and that type of window structure would not be appropriate for a residential unit.

Secretary Bott and Member Taylor both expressed their unhappiness with the architectural appearance of the building. Member Taylor stated that she was pleased that the building would be in use again, but did not agree that the design will recreate the historical façade. Attorney Hardt stated that they are not trying to restore the historical

façade; they are trying to renovate and make the building re-usable. He stated that they would work with the Board on colors. He said that there are things they can do and some things that they can't do. This is a low and moderate income housing project so there are some limitations in that direction. It would be incredibly expensive to return this building to historical accuracy, but it will look a lot better than it is.

Chairman Zekas stated that based on the interior layout there probably is a reason why you wouldn't want windows on those outside walls. Mr. Cohen said that certain areas of the interior don't lend themselves to windows.

Secretary Bott stated that there was a window proposed for the right side of the building but no window on the left. If a window was added to the left side then it might balance the appearance. Mr. Cohen stated that a lot of the storefront windows had been parged over and the brick pattern had been painted on. It is actually stucco that has been painted to look like brick. They were trying to mask over this by putting the stucco there. Mr. Cohen said he is not averse to adding a window but he would have to look at the interior design to see if it was possible.

Attorney Hardt stated that there could be a condition that the applicant would work with the planner to maximize historic accuracy to the extent possible. Attorney Hardt stated that there are limitations as to how much can be spent on this. Mr. Cohen stated that he was concerned about the size of the openings. The first floor which previously was a bar had very large window openings. This would not be feasible for residential uses. Attorney Hardt stated that these have to remain COAH units, but to the extent possible the applicant will work with the Board to make the façade architecturally pleasing.

Member Crowell stated that none of these comments are meant to be mean spirited. The Board welcomes and encourages investment in Florence but as stewards of the Township and members of this Board it is imperative that this discussion be held to insure that the best possible and most aesthetically pleasing façade be approved. Attorney Hardt stated that they are pleased to work with the Board, but there are limitations as to what they can do.

Planner Fegley stated that it looks like the stucco goes down to the sidewalk, but the brick does not go all the way down. Mr. Cohen stated that the brick was not even across the entire façade and they were trying to find a happy medium with the stucco.

Member Sovak stated that there are methods such as areas of reveals and offsets which could break up a big bland area.

Attorney Hardt called James Miller, planner for the applicant.

Mr. Miller stated that he was asked to evaluate the project from a planning and zoning perspective and to evaluate it in terms of the relief that is required for the "C" and "D" variances that are before the Board this evening. He stated that to prepare for this evening's meeting he had reviewed the appropriate sections of the Township's Zoning



ordinances, the Master Plan and Housing Element and visited the site and surrounding area.

Mr. Miller stated that he will be providing testimony in support of the variances and that testimony will consist of a quick review of the field conditions which provide the foundation for the variances, then discuss the positive and negative criteria as they apply to the “D” variance (Use) and finally review the criteria for the “C” variances.

Mr. Miller said that this project is proposed to be an affordable housing project with income qualified units, which means that it will contribute to the Township’s regional housing obligations, commonly referred to right now as COAH, although that agency is now part of the DCA and there is a state of flux regarding those regulations. The Township’s obligation to provide affordable housing will be on going and this project will contribute 6 units to that effort.

The zoning for this site is NC Neighborhood Commercial. The surrounding area also contains some areas which are zoned for RC High Density residential (north and east of the site) and some RB Medium to High Density residential zoning (west of the site). In terms of the surrounding uses to the north and east there is a series of dwellings of varying configuration. Some are single family detached; others have more than one unit. To the southeast is the Housing Authority complex (Maplewood Homes), which consists of 50 units in 6 building plus a community building and off street parking for 65 cars. The southeast corner of Foundry St. and Third St. has a single family dwelling. The southwest corner of Foundry and Third has a vacant lot which appears to be a community garden and then directly across the street from the site is the Marconi Lodge and some other residential uses in the balance of that block.

Mr. Miller stated that the relief being sought this evening was a D(1) variance which would allow the property to be used exclusively for residential use and specifically for the 6 affordable housing units in a zone which only allows commercial uses with residential uses on the second or third floor of a structure. Also there are a series of C variances that have to do with parking requirements, buffering and landscaping.

In terms of the positive criteria for the Use variance there is a series of cases which have determined that COAH qualified or income qualified units are an inherently beneficial use. Those cases would include *Homes of Hope v. Eastampton Twp.* Land Use Planning Board and *DeSimone v. Greater Englewood Housing Corp.* As an inherently beneficial use the positive and negative criteria get combined into a balancing test (Sica Test) which has 4 steps. The first step is to identify the benefits of the use. Secondly you have to identify any potential detriment or impact that the use might have on the surrounding neighborhood. Thirdly, either the Board or the applicant can review means of mitigating those impacts. The fourth step is to balance the benefit of the use against whatever detrimental impacts might result from the use. If the benefit is greater than the detriment the use satisfies the balancing test and would merit the approval of the Board. In addition the legislature has also required an inherently beneficial use to address the other aspects

of the negative criteria which is does the use advance the public welfare and that there be no impairment of the intent and purposes of the zone plan.

Mr. Miller stated that there are a series of purposes of the Municipal Land Use Law that would be advanced by this application.

They include “a” “To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals and general welfare”. He stated that certainly an affordable housing project achieves that objective.

Secondly purpose “g” “To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.”

And finally purpose “i” “To promote a desirable visual environment through creative development techniques and good civic design and arrangement”. He stated that the fact that they are rehabilitating a vacant and dilapidated structure would achieve that objective.

Mr. Miller stated that the relief requested would provide for the construction of 6 affordable units. These units would provide affordable housing and would respond to some of the obligations that have been identified both by the state in their regional housing calculations and also in the Florence Township Housing Element and Fair Share plan. These units would contribute to the Market to Affordable section of the Fair Share Plan. Basically there is a structure which at one time had a residential component and that is going to be converted from a market unit (one that doesn’t have an income restriction) into these 6 affordable units.

The other benefits of this application are the fact that you have the redevelopment of what is currently a vacant and dilapidated building. You are converting a functionally obsolete building into a contemporary and valid purpose. It will return the structure to a viable use. Whenever you rehabilitate an abandoned and dilapidated structure there is a benefit to the community because reoccupying the building makes the streetscape more attractive. There is no question that rehabilitating this building will be an aesthetic, urban design enhancement for this section of the Township.

Mr. Miller stated that he doesn’t see any significant adverse impacts and certainly none that can’t be mitigated. There is going to be adequate off street parking; 7 parking spaces are proposed, one of which is a handicap space. The proposal also substitutes a residential use which is going to be less impactful than the tavern which is the most recent former use of the property. Given the character and the location of the building this is probably a less impactful use than what has been there in the past.

Mr. Miller stated that for the third step of the balancing test the primary impact will be the parking. The other impacts are beneficial. There are also some landscaping questions that were brought up by the Board's planner and the applicant has agreed to meet with the Township's landscape architect and create a good landscaping plan for the site. There is going to be more green space here than there was currently. Basically the rear of the property was used as a parking area. There was no managed open space. This application will allow that area to become lawns and landscaping with appropriate bushes and trees. This will enhance the character of the community and will create a more attractive use of this property. Most of the impacts from this application are positive.

Mr. Miller said that in his opinion when you apply the balancing test and compare the benefits, which are the 6 affordable units that will help the Township comply with its affordable housing obligations and all the benefits that come with rehabilitating the structure, landscaping etc. the benefits far exceed any detriment and the application will satisfy the balancing test.

Mr. Miller continued that in terms of the impairment of the intent of the zone plan, this area is zoned for commercial use, but the existing land use pattern is residential and the uses which border this are primarily residential on all 4 sides of the property. It is very difficult for this property to conform to the use controls in the zoning because it is a very small parcel approximately 1/5 of an acre. A parcel of this size is much smaller than what the commercial zone requires and as a consequence it can't accommodate all the other standards that apply to a commercial use. It can't provide the off street parking or setbacks. It is basically too small to work. He stated that the Township has recognized that there are a lot of small parcels on areas that are commercial. The way that this is ordinarily addressed is that there are shared elements in the commercial strip. The buildings are all abutting. They all have commercial uses, they can have shared parking. They can have shared access through rear alleys. None of that is possible here because this property only has 40' of depth and it abuts a residential area. Basically it is much better for this property to be utilized as a residential property than for any of the uses which would otherwise be permitted by the zoning district. This doesn't result in any impairment to the intent of the zone plan because the use that is proposed is more consistent with the land use patterns and also because the proposed use advances other objectives of the zoning ordinance. Those are primarily the housing objectives. The ordinance has many, many provisions that all call for affordable housing. This offsets any inconsistencies with the use controls and helps to implement other aspects of the ordinance and does not impair the intent or purpose of the zone plan but rather an objective to comply with many of the goals objectives of that ordinance.

Mr. Miller stated that he would now address the "C" variances and stated that there are a number of variances that are C(1) or hardship variances. First of all there are a lot of non-conforming conditions because this is pre-existing building which was built long before there was any zoning code in place. These are all called out in Planner Fegley's letter. He stated that he did not think they needed formal relief but just noted that these are pre-existing conditions that can't be remedied. There is also Section 91-232 B which requires a 20' planted area along any street and Section 91-232 F which requires a 25'

buffer adjoining any property line. The lot is only 40' wide. If you added up the 25' buffer and the 20' curb strip you come out with 45'. This alone creates a hardship. It is physically impossible to achieve this. He stated that they would work with the planner to make sure that there is landscaping there. There is not a tremendous need for buffering because the property line that abuts the adjoining use has a garage which is basically a blank wall along the applicant's property where the parking area will be located. So this is not a really sensitive area but to the extent where there is a view into the adjoining yard the plans do call for some landscaping and if this needs to be supplemented the applicant is willing to do that. In terms of the positive criteria for those uses, basically this is a hardship which is a function of the extreme shallowness of this property. That would satisfy the criteria for C(1) variance.

Mr. Miller stated that the other variances are C(2) variances. He stated that there is a requirement that there be a 20' planted area between the rear of the building and the parking lot. Currently the plans call for 13'. Mr. Miller proposed to the Board that they will pull the parking lot back so that there is a 20' separation between the parking lot and the rear of the building. This would eliminate the need for that variance. This will also create a small yard area behind the building for the tenants. The plans will be revised to reflect this.

Mr. Miller stated that there is a technical variance that has to do with the parking standards. The parking standards are geared toward market level units and for this project 11 parking spaces would be required. The applicant is providing 7 parking spaces. This would be a C(2) variance and they must show that it makes more sense from a zoning standpoint to have 7 spaces as opposed to 11 spaces. Mr. Miller stated that this variance would advance the 3 purposes of the Municipal Land Use Law that he had cited earlier. The parking plan is a better zoning alternative because it is an upgrade of the existing condition. Currently the parking is completely unregulated with no paving or striping of any sort. This plan would create a paved striped controlled parking area.

Mr. Miller stated that it has been his experience and the experience of others who have dealt with the aspects of affordable housing that affordable housing units do not require the same amount of off street parking as market units do. The reason for this is that if you have an income such that you qualify for affordable units you don't have the disposable income to support multiple cars in the household. Consequently affordable housing units usually need one space per unit. This has been substantiated by multiple studies. Mr. Miller stated that he had personally done a study of the MEND units in Moorestown and found that for those units one space per unit was adequate. This is very close to the ratio that the Township has followed for the Township Housing Authority project (Maplewood Homes) across the street. He said that he had done a field inspection of that property early on a Sunday morning when he was reasonable certain that all the cars associated with that project would be parked there and found that the ratio was just about 1 to 1 for that particular project.

Mr. Miller stated that he also interviewed some of the people that work with CIS which is one of the largest low and moderate income housing providers in the state of New Jersey

and they have found that one space per unit works for their projects as well. There is an enormous amount of data that supports this variance and he feels that 7 spaces for 6 units will be completely adequate for this project. He stated that as a result this is a better zoning alternative not just because there will be adequate parking but by having 7 spaces it frees up some of the lot for green space and landscape which will make it a better fit in the community and more attractive than it has ever been in the past. He stated that for these reasons it satisfies the positive criteria.

Mr. Miller said that in terms of the negative criteria they have to show that there is no impairment of the intent and purpose of the zone plan. This is a project which will advance the housing goals and objectives of the Ordinance and the Master Plan. The relief is going to result in a better site plan, the rehabilitation of an existing building and the elimination of the blighted condition in this community and replacing that with a viable and well managed property. All the relief that is being sought is going to work toward achieving the housing objectives. The parking will be more than adequate for the units that are in place and the landscaping and buffering associated with this use will be an upgrade over what is there. There won't be any impairment of the intent of purpose of the zone plan from any of the C variances being sought tonight.

Member Buddenbaum asked if there was a plan to designate a parking spot for each apartment. Mr. Miller stated that they could do this. Attorney Hardt stated that he has found that in low and moderate income housing it is not a good idea to allocate parking. Member Buddenbaum stated his concern is with people who don't live in the building using the parking lot. Mr. Miller stated that he doesn't think this will be an issue as it doesn't appear that there are any parking problems in the area. There appears to be sufficient parking available in the Housing Authority complex and adequate on street parking available.

Planner Fegley stated that there were a few items on her review letter dated February 15, 2012 that she wanted to go over. On page 3 under Site Plan and Design Comments No.1 refers to the area of disturbance being less than 5,000 sq. ft. Mr. Nicholson stated that it is less than 5,000 sq. ft. and he can provide verification of that as a condition of this approval. On page 4 No. 2 Planner Fegley stated that there is a car that was parked at the very northeastern edge of the site and stated that the row of shrubbery should be moved to the back to deter this parking issue.

Mr. Nicholson stated that they would be complying with all the recommendations of the planner's letter.

Planner Fegley asked if the units would be moderate, low or very low and asked if they will conform to the DCA standards and the uniform affordability controls established by the former COAH? Attorney Hardt stated that the units would be low and moderate and will conform to the Township's COAH consultant in the restrictions and for the affordability limitations and the selection of tenants.

Member Crowell stated that this site is in close proximity to the existing HUD project and commented that he understands that in this case we are dealing with an existing building and that building can't be moved. He said that although he welcomes the investment into this building, he would prefer to see affordable housing spread out evenly across the Township and not concentrated in certain areas.

Attorney Hardt said that this building is not in real good condition. If the variances are not granted and the building continues to deteriorate it would not help the neighborhood at all.

Member Taylor stated that given the current state of the economy it is unrealistic to think that a business would open in this building. She said that making it living space seems to be a good way to use the site.

Chairman Zekas opened the hearing to public comment

Linda Pellicore, 1020 West Fourth Street, was sworn in by Solicitor Frank. Ms. Pellicore stated that she was raised on West Third Street right down from the subject property. She stated that she has lived in this area for over 45 years. She said that this building was the Green Star Inn back in the 1960's and early 1970's. This has been a bar 3 or 4 times over. The property has been an eyesore for at least the last 7 years.

Ms. Pellicore stated that this is not a nice area of the town. She said that she did not think the suggestion of a green space in the back of the site for socializing is a good idea. She asked if there would be an onsite owner who would clean up the trash. Attorney Hardt stated that 220 Foundry Street, LLC is the owner. They have a connection with the Fountain of Life Church, who would provide the maintenance. Ms. Pellicore asked where all the garbage cans would go. Attorney Hardt stated that the location of the garbage cans will be worked out with the planner after the meeting to insure that they will not become a problem to the neighbors or to the owner.

Ms. Pellicore questioned that number of parking spaces proposed. Attorney Hardt stated that testimony had been given that adequate parking was being provided for this use.

Ms. Pellicore stated that this property was low income but not senior citizen so there could be children living in the complex. Member Taylor asked if there were criteria as to the maximum occupancy of the building. Attorney Hardt said that there is a chart published by COAH that calls out the number of occupants permitted in the building. Mr. Miller stated that there was a chart which establishes income levels by household size. There are 2 sets of parameters – moderate and low. The income levels are periodically established by DCA (formerly by COAH). This is done on a regional basis throughout the state. There is a formula for this.

Mr. Miller said that generally in a one bedroom affordable household unit there is a little less than 2 people in the household. Most time those 2 people are adults. Occasionally there might be a child. He stated that with a small project like this there is going to be

tight management so it is unlikely that there will be someone there who is not supposed to be there. Generally in the one bedroom units there would be 1 to 2 people and 2 to 3 people in the 2 bedroom units.

Member Taylor said that if there were 3 people living in one of the apartments it is feasible that 2 of those people could own cars. Mr. Miller stated that statistically this is very unlikely. It is more likely that there will be less than 6 cars rather than more.

Member Buddenbaum asked what would happen if a female moved in to one of the apartments and over time had 2 children. Would she be evicted? Attorney Hardt stated that if she exceeds the limitations that are within the occupancy restrictions he would urge his client to evict them and they would have a right to do that. Mr. Miller stated that there are stacks of regulations that manage these projects.

Member Buddenbaum said what if nobody ever checked on it? Mr. Miller stated that there is a distinction here. There are a lot of market units that are low income units, but not low income qualified units. In other words there is no restriction on that unit that says that the income of that person has to be within a certain range. These are the units where you have that kind of a problem because these are the units that don't have any management. Here it is less likely to occur because there is management. Generally there is much tighter control over the residents of an income qualified project because of all the regulations that you have to comply then there would be in a market unit.

Ms. Pellicore asked about the time frame for starting this project and stated her concern regarding noise from the construction. Susan Michael Esposito, manager of the LLC, was sworn in by Solicitor Frank. Ms. Esposito stated that they are anxious to get started with this project and are just waiting for the completion of the land use process.

Ms. Pellicore stated that she didn't see how having 6 low income apartments in this building is going to help Florence. She asked if the future tenants of the apartments would be from Florence. Attorney Hardt stated that there are no restriction on that and no preference is given on township residency. Ms. Esposito stated that this is regulated through the state of New Jersey they have no control over it.

Ms. Pellicore stated that she would have preferred that this be converted into a deli rather than apartments. Secretary Bott asked Ms. Pellicore is she would rather have a vacant building or the apartments that are proposed? Ms. Pellicore stated that she would rather see the building razed.

Member Taylor asked if the perspective residents went through a background check? Attorney Hardt stated that there is a procedure for qualification to live in these units that is performed by the township within the state guidelines.

Motion of Taylor, seconded by Crowell to close the public hearing. Motion unanimously approved by all members present.

Solicitor Frank stated that this is an application for a Use variance, C variances (note for the record that there are several pre-existing non-conforming situations that don't require any Board action), and a Minor Site Plan application. Solicitor Frank stated that Mr. Miller's detailed discussion did a good job of explaining the Sica test for a Use variance for an inherently beneficial use. Solicitor Frank stated that he did agree with the cases that Mr. Miller cited with regard to the very clear statement of the courts that affordable housing is an inherently beneficial use and weighing the benefits and the detriments of the use.

Solicitor Frank stated that if the Board were to approve the application there are several conditions that had been discussed this evening. Those conditions include conforming to all the plan detail and design comments set forth in the Board Engineer's February 15, 2012 letter except with regard to on page 5 comments regarding curb and ramp improvements where the township will do the work. Additionally the applicant will be removing the ramp that is proposed in the right-of-way on Third Street and they will go to the governing body to request relief to permit the stoop for the door on Third Street to continue to exist in the right-of-way. The Board Engineer supported the design exception necessary to have the 9' x 18' parking spaces. The applicant agreed that they would comply with the Environmental Commission's concerns with regard to down lighting. The applicant agreed to work with the Board Planner administratively after the approvals to provide a final design for a trash and recyclable enclosure for the site. The applicant will comply with the review letter for the Director of Water and Sewer regarding the water supply and sewage drainage. The applicant agreed that they would work with the Board's planner to make the buildings facades appearance as attractive as possible given the constraints with the existing nature of the building and the financial constraints. The applicant has agreed to work with the Township's landscape architect with regard to finalizing the design and installation of the landscaping on the site. The applicant proposed to eliminate one of the variances called out in the planner's letter by moving the parking area back away from the building to provide the 20' separation. The applicant will quantify the area of disturbance to demonstrate that in fact it is less than 5,000 sq. ft. The applicant will comply with New Jersey Department of Community Affairs (DCA) regulations and the Fair Housing Act in order to achieve the low to moderate affordable housing that provides the township credit under the regulations for affordable housing. This would include among other things deed restrictions for low or moderate incomes. Finally the usual conditions regarding taxes and escrows will apply.

Chairman Zekas stated that with regard to the mature tree on the property there will be a site visit to find out who owns and is responsible for the tree and to determine if it is possible to save the tree. He also added that the shrubs should be moved to the east side of the property.

Solicitor Frank stated that the applicant also agreed to comply with all the comments in the Board Planner's February 15, 2012 review letter.

Motion of Taylor, seconded by Crowell to approve the application with the conditions set forth by Solicitor Frank.



Upon roll call the Board voted as follows:

YEAS: Buddenbaum, Crowell, Bott, Groze, Lutz, Taylor, Zekas  
NOES: None  
ABSENT: None

#### MINUTES

Motion of Bott, seconded by Buddenbaum to approve the Minutes from the meeting of January 24, 2012 as submitted. Motion unanimously approved by all members present.

#### CORRESPONDENCE

- A. Correspondence B through F all regarding Effisolar Energy Corporation which were held over from the January 24, 2012 meeting for further review.
- B. Resolution No. 2012-45 "A Resolution of the Township Council of the Township of Florence establishing a "Green Team" to develop recommendations and to advise the Mayor and Council on the Implementation of the Sustainable Jersey Program."

Motion was made and seconded to receive and file A and B. Motion unanimously approved by all members present.

#### OTHER BUSINESS

Chairman Zekas stated that the Board Clerk would be preparing thank you letters for the 3 members who have moved on, John Fratinardo, Bob Adams and Ray Montgomery.

Chairman Zekas noted for the record that there was no public in attendance.

Motion of Taylor, seconded by Buddenbaum to adjourn the meeting at 9:33 p.m.

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William E. Bott, Secretary

WEB/ne